

Title 15
DEPARTMENT OF AGRICULTURE

Subtitle 16 MARYLAND HORSE INDUSTRY BOARD

15.16.01 General Regulations

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15.16.03 Administrative Penalty Standards

Authority: Agriculture Article, §§2-701, 2-707, 2-710, 2-711, 2-712 and 2-718, Annotated Code of Maryland

Notice of Proposed Action

[13-018-P]

The Secretary of Agriculture proposes to amend Regulations **.02, .04, and .05 — .08** under **COMAR 15.16.01 General Regulations**; and Regulations **.01 — .05** under **COMAR 15.16.03 Administrative Penalty Standards**.

Statement of Purpose

The purpose of this action is to amend the attached regulations in accordance with recent amendments to the Maryland Horse Industry Law reflected in Senate Bill 108, Chapter 19, Acts of 2012. In addition to other changes reflected in this bill, the proposed action amends and defines certain terms, increases certain fees, alters certain licensing classifications, alters the inspection schedule, alters the sanction that may be imposed for failing a third inspection, and specifies the grounds for pursuing an administrative penalty and the maximum amount that may be imposed for each violation.

Opportunity for Public Comment

Comments may be sent to Ross Peddicord, Executive Director, Maryland Department of Agriculture, Maryland Horse Industry Board, 50 Harry S. Truman Parkway, Annapolis, MD 21401, or call 410-841-5798, or email to Ross.Peddicord@maryland.gov, or fax to 410-841-5780. Comments will be accepted through February 25, 2013. A public hearing has not been scheduled.

Title 15 DEPARTMENT OF AGRICULTURE

Subtitle 16 MARYLAND HORSE INDUSTRY BOARD

Chapter 01 General Regulations

Authority: Agriculture Article, §§2-707, 2-711, and 2-712, Annotated Code of Maryland

.01 Text unchanged.

.02 Definitions.

A. —B. Text unchanged.

(1) "Board" means the [State Board of Inspection of Horse Riding Stables] *Horse Industry Board*.

[(2) "Horse riding and rental stable" means an establishment that performs any of the following activities:

(a) Stables five or more horses and receives compensation for these services;

(b) Sells five or more horses a year; or

(c) Lets for hire one or more horses to be ridden or driven.]

(2) "*Horse Establishment*" means an establishment that solicits or offers the public any of the following activities:

(a) A boarding stable;

(b) A lesson or rental stable; or

(c) A rescue or sanctuary stable.

(3) "Operator's license" means that license that the Board has issued entitling a person to operate and maintain a horse [riding and rental stable] *establishment*.

.03 Text unchanged.

.04 Operator's License.

A. Required to Conduct Business. Except as provided under §I of this regulation, a person may not operate or maintain a horse [riding and rental stable] *establishment* without first obtaining an operator's license in at least one of the [four] *three* different licensing classifications developed by the Board.

B. Determination by Board. Before the Board may issue an operator's license in a particular class to a person, the Board shall first determine whether that person's horse [riding and rental stable] *establishment* meets the requirements of that class. The requirements for each licensing class are stated in Regulation .07.

C. Licensing Classifications. The licensing classifications developed by the Board are based on the [four] *three* different activities that may be offered at a horse [riding and rental stable] *establishment* and which, because any one of them is offered, requires that the establishment's operator be licensed. The licensing classifications and their respective activities are the:

(1) Boarding *stable* class, for establishments that [stable five or more horses and receive compensation for these services] *solicit or offer to the public to stable horses*;

(2) [Sales class, for establishments that sell five or more horses a year] *Rescue or sanctuary stable class, for establishments that offer to the public to shelter or keep one or more horses for humane purposes with or without compensation and with or without tax-exempt status; and*;

[(3) Rental class, for establishments that let for hire one or more horses to be ridden or driven and for which instruction is not given; and

(4) Instruction class, for establishments that let for hire one or more horses to be ridden or driven and for which instruction is given.]

(3) *Lesson or rental stable class, for establishments in which one or more horses are offered to the public to be let for hire, to be ridden or driven, either with or without the furnishing of riding or driving instructions.*

D. Limitations on Licensee. A person who has been issued an operator's license may:

(1) Conduct [his] such business only at the horse [riding and rental stable] *establishment* shown on his application; and

(2) Offer only those activities allowed to be performed in the particular class or classes [that he] *in which the person* is licensed to do business [in].

E. Who May Apply.

(1) Only a person who either owns or is leasing a horse [riding and rental stable] *establishment* may apply for an operator's license.

(2) If the owner or lessee of a horse [riding and rental stable] *establishment* is a corporation or other association, the application shall be made in the name of that corporation or other association.

(3) If the owner or lessee of the horse [riding and rental stable] *establishment* is an individual, the application shall be made in that individual's name.

(4) Text unchanged.

F. Application and Renewal Process.

(1) Text unchanged.

(a) Text unchanged.

(b) As established under §C of this regulation, indicate on the application form which class or classes of activities [he] *the person* intends to do business in for that application year; and

(c) Pay the [following] nonrefundable fee[s :] of \$125.

[(i) A \$25 inspection fee, and

(ii) A \$50 application fee.]

(2) The Board may not issue an operator's license to a person until that person's horse [riding and rental stable] *establishment* has passed Board inspection as provided in Regulation .05.

G. — I. Text unchanged.

.05 Board Inspection of Horse [Riding and Rental Stable] Establishments.

A. Inspection Requirement. The Board shall inspect the horse [riding and rental stables] *establishments* of the following persons:

(1) — (2) Text unchanged.

B. Purpose of Inspection.

(1) Text unchanged.

(2) Licensee's Establishment. [At least once annually the] *The* Board shall *periodically* inspect a licensee's establishment to determine whether it still meets the requirements provided under Regulation .07 of the class or classes its operator is licensed to do business in.

C. Text unchanged.

.06 Establishment's Failure to Pass Inspection.

A. *Failure of Applicant's Establishment to Pass Initial Inspection.*

[(1) If an applicant's establishment fails to meet all of the requirements of the particular class or classes that the applicant is intending to do business in for that application year, the applicant may request that the Board conduct an additional inspection.

(2) If the Board conducts an additional inspection of an applicant's establishment, it may not charge the applicant an additional \$25 inspection fee.]

(1) *Initial Inspection.* *The Board may not issue a license to a person to operate a horse establishment if the establishment fails to pass inspection.*

(2) *Subsequent Inspection.* *If an establishment fails to pass its initial inspection, the Board may:*

(a) *Conduct a subsequent inspection after giving the person sufficient time to correct the deficiencies; and*

(b) *Issue a license if it finds during the subsequent inspection that the deficiencies have been corrected.*

B. *Failure of Licensee's Establishment to Pass Inspection.*

(1) Text unchanged.

(a) Text unchanged.

- (b) The licensee, before the additional inspection is scheduled to occur, shall:
 - (i) Complete those measures necessary to correct the perceived deficiencies; and
 - (ii) Text unchanged.
- (2) — (4) Text unchanged.
 - (a) Text unchanged.
 - (b) Conduct an administrative hearing in order to determine whether [the]:
 - (i) *The operator's license in a particular class or classes should be suspended or revoked for any of the reasons listed in Agriculture Article, §2-715, Annotated Code of Maryland[.] ; or*
 - (ii) *The operator shall pay an administrative penalty as provided under COMAR 15.16.03.*
- [(5) Additional Inspection Fees. The licensee shall pay an additional inspection fee of \$25 for each additional inspection that the Board conducts.]

.07 Licensing Requirements.

- A. — B. Text unchanged.
- C. Special Requirements.
 - (1) *Boarding Stable Class.* A person who has been issued an operator's license in this class [need only] *shall* comply with the general requirements outlined in §A of this regulation.
 - [(2) *Sales Class.* A person who has been issued an operator's license in this class shall, in addition to the general requirements outlined in §A of this regulation, comply with the provisions of Agriculture Article, 3-301-----3-310, Annotated Code of Maryland, which provisions regulate the sale of livestock in the State.]
 - (2) *Rescue or Sanctuary Class.* *A person who has been issued an operator's license in this class shall comply with the general requirements outlined in §A of this regulation.*
 - (3) *Lesson or Rental Class.* A person who has been issued an operator's license in this class shall, in addition to the general requirements outlined in §A of this regulation, comply with the following:
 - (a) — (f) Text unchanged.
 - [(4) *Instruction Class.* A person who has been issued an operator's license in this class shall comply with the same requirements imposed on an operation in the rental class.]

.08 Appeals.

- A. A person may appeal a decision by the Board:
 - (1) Not to [issue or] renew an operator's license in a particular class or classes;
 - (2) To suspend or revoke an operator's license in a particular class or classes[.] ; *or*
 - (3) *To impose a civil penalty as provided under COMAR 15.16.03.*
- B. Text unchanged.

SUBTITLE 16 MARYLAND HORSE INDUSTRY BOARD

Chapter 03 [Civil] *Administrative Penalty Standards* [for Unlicensed Stable Operators]

Authority: Agriculture Article, §§ 2-701, 2-710 and 2-718, Annotated Code of Maryland

.01 Scope.

This chapter determines the [civil] *administrative* penalty amount for any person who operates an unlicensed horse [riding, instructional, sales, rescue, training, breeding, or rental stable] *establishment or has violated any provision of § 2-715 of the Agriculture Article.*

.02 Penalty.

- A. *Terms defined. In this Chapter, the following terms have the meanings indicated.*
 - 1. *“Licensee” means a person who is licensed to operate a Horse Establishment.*
 - 2. *“Member of the Board” means a member of the Horse Industry Board including a Board inspector.*

B. After a hearing, or an opportunity for a hearing, the Board may impose a penalty on [an operator who is not licensed.]:

1. *A person who operates or maintains a horse establishment without a license; or*
2. *A licensee who:*
 - (a) *Refuses to allow a member of the Board to enter and inspect the licensed premises;*
 - (b) *Obstructs any member of the Board in the performance of that person's duties;*
 - (c) *Fails to provide suitable food, water, and shelter for a horse under control of the licensee;*
 - (d) *Maintains an unsanitary or unfit horse establishment;*
 - (e) *Fails to provide suitable saddles, bridles, harnesses, or other tack or equipment;*
 - (f) *Allows unfit horses to be used for riding or driving purposes;*
 - (g) *Commits an act of cruelty as defined in § 10-601 of the Criminal Law Article, or allows the commission of an act of cruelty by any other person with relation to any horse under control of the licensee;*
 - (h) *Does any other act that, in the opinion of the Board, taking into consideration the welfare of the horses under the control of the licensee, shows that the licensee is unfit to operate a horse establishment; or*
 - (i) *Fails to comply with the rules and regulations of the Board after receiving a license.*

.03 [Violations.

The Board may impose a penalty on a person who operates an unlicensed horse riding, instructional, sales, rescue, training, breeding, or rental stable.

.04]Violations for the Purpose of Determining Penalties.

A. *Except as provided in Section B of this regulation, the Board may impose an administrative penalty up to \$2,000 for each violation of this Chapter taking into consideration the gravity of the offense as it relates to:*

1. *The risk of injury to member of the public who may let for hire, to be ridden or driven, a horse at that establishment; or*
2. *The fitness or welfare of a horse under the control of the licensee.*

B. *For violations of Regulation .02B.1 and B.2(a)-(b) of this Chapter, the Board may impose:*

1. *For a first violation [of Regulation .03 of this chapter, the Board may impose], a penalty of: not less than \$500 or more than \$1,000[.];*

[B.] 2. *For the second violation [of Regulation .03 of this chapter, the Board may impose], a penalty of not less than \$1,000 or more than \$1,500[.]; and*

[C.] 3. *For the third and any subsequent violation [of Regulation .03 of this chapter, the Board may impose], a penalty of not less than \$1,500 or more than \$2,000.*

[.05] .04 Appeal.

A. [An operator] *Any person subject to the Board's jurisdiction may appeal, according to Agriculture Article, §2-405, Annotated Code of Maryland, the Board's decision to impose [a civil] an administrative penalty.*

B. *An operator shall be notified of this right to appeal.*

[.06] .05 Penalty Payment.

Unless [an operator] *a person* appeals, the amount of a penalty shall be paid promptly to the Board.